

# CITY OF SAN LEANDRO

## STAFF REPORT

**Date:** March 2, 2017

**To:** Chris Zapata, City Manager

**From:** Keith R. Cooke, P.E., Director  
Engineering and Transportation Department

**By:** Kirsten “Kurry” Foley, Administrative Services Manager  
Engineering and Transportation Department

**Subject:** Community Workforce Agreement – Update to Finance Committee

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## BACKGROUND

On June 15, 2015, Council approved a Community Workforce Agreement (CWA) with the Alameda County Building and Construction Trades Council with the following key provisions:

1. Minimum construction cost threshold of \$1,000,000.00.
2. Labor Peace: For all projects covered by the Agreement, there will be no strikes, sympathy strikes, work stoppages, picketing, hand billing, or slowdowns of any kind, for any reason, on the projects, at a job site of the projects or at any other facility of the City.
3. Union Hiring Hall and Impact on Non-Union Contractors: Contractors working on covered projects would be required, in filling craft job requirements, to utilize and be bound by the registration and referral systems authorized by the signatory unions. This is commonly referred to as the union hiring hall.

The agreement does not prohibit non-union contractors from bidding on projects. However, the CWA allows non-union contractors to use no more than five of their own employees and only if those workers are San Leandro residents and an equal number of union workers are also retained by the contractor. This is known as the “Core Worker” provision. Non-union “core” workers hired under this provision would still be required to register with the union hiring hall and the non-union contractor would be required to pay into the union trust fund, covering health and pension benefits for these workers.

4. Local Hire: The CWA sets a goal of 30% participation by San Leandro residents in construction projects that are covered by the CWA.
5. Apprenticeships: The agreement requires contractors to hire one San Leandro resident as a New Apprentice for the first \$1 million of the bid amount. Thereafter, for every \$5 million of project monies, the contractor would be required to hire one additional New Apprentice.

6. Joint Administrative Committee: A five person Joint Administrative Committee comprised of two representatives selected by the City; two representatives of the signatory Unions and Alameda County Building and Construction Trades Council; and one industry representative, mutually selected by the City and the Alameda County Building and Construction Trades Council was established under the agreement. The Committee meets every other month to review the progress of the projects including, but not limited to, compliance with local hire and apprenticeship provisions as well as prevailing wage, safety, craft workforce levels and construction progress.

**DISCUSSION**

Implementation of the CWA began on January 1, 2016 for a term of three years. In 2016, two projects, the Climatec Energy and Water Efficiencies Project (awarded May 2016, non-union contractor, \$5.2m) and the Annual Overlay Rehabilitation 2015-2016 Project (awarded July 2016, union contractor, \$2.4m), met the minimum cost threshold. Work began for both projects in fall 2016 and continues as of the writing of this update.

As less than 25% of each of these projects is complete as of February 2017, there is not sufficient data to report on progress made for the local hire and apprenticeship goals for each project. Staff anticipates that each project will be complete at the end of 2017 and will have a more complete report of local hire and apprenticeship goal achievement at that time.

While weather delays have slowed construction of the Annual Overlay Rehabilitation project, the delays to the Climatec project’s four energy and water efficiency phases are a result of protracted negotiations with subcontractors resulting from the local hire provisions of the CWA. The general contractor reports that though the subcontractors approached were almost entirely union contractors, when informed about the provisions of the CWA, these firms exited negotiations because of the Agreement. This caused project delays and an increase to the project’s timeline of more than 50% based on the original nine month timeline as well as comparable projects performed for other agencies of a similar size/scope.

Implementation of the CWA has impacted staff’s ability to deliver projects as there is increased amount of time spent on pre-bid activities and compliance as well as technical assistance efforts.

The following is a comparison to the City of Berkeley and a summary of its CWA implementation.

<b>Agency</b>	<b>% Staff FTE</b>	<b>Construction Cost Threshold</b>	<b>Term of Agreement</b>	<b>No. of Qualifying Projects</b>
City of San Leandro	.3	\$1,000,000.00	2016-2018	2
City of Berkeley	1.5	\$1,000,000.00 \$ 500,000.00	2012-2015 (1 <sup>st</sup> ) 2016-2018 (2 <sup>nd</sup> )	15*

\*Project data available for period December 8, 2015 – March 2, 2017 only.

From a June 2015 City of Berkeley City Council staff report:

“Based on experience with the Community Workforce Agreement (CWA) in effect since January 2011, staff has identified additional costs associated with the CWA:

- Construction labor costs for CWA-covered projects are approximately 5-10% higher than for non-CWA projects.
- There are additional administrative costs for non-union Contractors and possibly workers on CWA projects, including initiation fees that vary between the unions and payment into the union trust fund. These costs apply to Contractors who want to utilize their non-union core workers as is permitted under the CWA, and those costs might be passed on to the City of Berkeley.
- The Public Works staff cost associated with administering the agreement is approximately \$500-\$1,000 per project.

Recent bid results suggest the CWA may decrease the number of bidders and correspondingly increase construction costs. Some contractors have indicated that they are not interested in bidding CWA projects. The impact of receiving fewer bids at higher cost due to the CWA is particularly significant in the current economic climate when the City is receiving fewer bids. Below are four recent examples:

1. FY 2014 Green Infrastructure Project:  
Engineers estimate - \$578,426. The City received one bid for \$673,131. The Contractor has not bid Berkeley CWA projects and has indicated it may not do so in the future. Without the bid, staff would have re-bid the project. Re-bidding the project would have delayed the project three months and incurred additional staff costs.
2. Potter/Bolivar Paving Project:  
Engineers estimate - \$950,000. The City received three bids and the low bid was \$828,254. The next lowest bid was \$1,114,613. The low bid Contractor has not bid Berkeley CWA projects and has indicated they may not do so in the future.
3. FY 2015 Street Rehabilitation Project:  
Engineers estimate - \$2,700,000. The City received five bids. The low bid was \$2,187,475.. The Contractor’s pavement sealing subcontractor has indicated they will not agree to be bound by the CWA, and the Contractor is looking for alternatives to complete the work as bid. The Contractor and the Building Trades have looked for other contractors to complete the sealing work under the CWA. Thus far, one firm has indicated they will complete the work under the CWA, for an amount 50% greater than the \$175,000 bid cost. The City informed the Contractor that they are responsible for complying with the CWA, irrespective of whether their current subcontractor chooses to do so. Discussions with the Contractor are ongoing.
4. FY 2015 Measure M Street Surface Seal Project:  
Engineers estimate - \$1,900,000. The City received one bid from American Pavement Systems for \$2,715,147. Most pavement sealing contractors have indicated they did not consider bidding the project because it is a CWA project, and may not bid CWA projects in the future. Because the bid was 42% over the engineers estimate, staff re-bid the project. To complete the project within the paving season staff removed some of the work and bid the remaining work in two bid packages, with engineer’s estimates of \$753,392 and \$770,999. The City received two bids for each project and the low bids were \$1,024,500 and \$1,017,695, or 36% and 32% over the

respective engineer's estimates. Staff plans to reject all bids and re-bid the work next year. Contra Costa County bid a similar pavement sealing project under their labor agreement. They received one bid on May 18, 2015 for approximately 30% over their engineers estimate. The City of Fremont bid a similar project at the same time as the City of Berkeley without a labor agreement requirement. They received four bids at prices approximately 32% lower than those received by the City of Berkeley".

Infrastructure Project Bids per Fiscal Year  
Union/Non-Union By Award Amount

